



## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPPT-2021-0849; FRL-9311-01-OCSPP]

### **Revocation of 1980 Guidelines and Final Opportunity to Submit a Request to Correct the Initial Report Filed for the Original Toxic Substances Control Act (TSCA) Inventory of Chemical Substances**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice

**SUMMARY:** The Environmental Protection Agency (EPA) is revoking the 1980 guidelines and associated procedures for correcting the specific chemical identities of incorrectly described chemical substances submitted to EPA in 1978 using the original reporting form for inclusion on the Toxic Substances Control Act (TSCA) Chemical Substance Inventory (Inventory). In so doing, the Agency is providing a final opportunity to use the 1980 guidelines and form to request corrections of Inventory listings to address errors with the chemical identities submitted in the original reporting forms. The regulated community will have 60 days from the date of this notice to submit any final Inventory corrections. EPA is also announcing the discontinuation of the related form and associated approval of the collection activities under the Paperwork Reduction Act (PRA).

**DATES:** The revocation is effective May 31, 2022. All final Inventory corrections must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Final corrections must be submitted by mail to the Office of Pollution Prevention and Toxics Confidential Business Information Center (7407M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001 or by courier to the Office of Pollution Prevention and Toxics Confidential Business Information Center, Environmental Protection Agency, 1201 Constitution Avenue, NW, WJC East; Room 6428, Washington, DC

20004-3302; (202) 564-8930. The docket for this action, identified by docket identification (ID) number EPA-HQ-OPPT-2021-0894, is available online at <http://www.regulations.gov>. Please note that due to the public health concerns related to COVID-19, the EPA/Docket Center and Reading Room is open to visitors by appointment only. For the latest status information on the EPA/DC and docket access, visit <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Alexandria Stanton, New Chemicals Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202-564-5574; e-mail address: [stanton.alexandria@epa.gov](mailto:stanton.alexandria@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Executive Summary**

#### *A. Does this action apply to me?*

You may be affected by this action if you are a manufacturer or importer of a chemical substance who incorrectly reported to the original TSCA Inventory published in 1979, or its revision published in 1980, via an original Inventory reporting form, and added to the Inventory with an incorrect specific chemical identity. The following North American Industrial Classification System (NAICS) codes are not intended to be exhaustive, but rather provide a guide to help readers determine whether this action may apply to them:

- Chemical manufacturing or processing (NAICS code 325).
- Petroleum and Coal Products Manufacturing (NAICS code 324).

If you have questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

#### *B. What action is the Agency taking?*

EPA will be discontinuing processing Inventory Corrections, withdrawing its Inventory Correction guidelines published in the *Federal Register* of July 29, 1980 (45 FR 50544), and phasing out the accompanying procedures by which a person who submitted an incorrectly

identified chemical substance on an original Inventory reporting form, or a legal successor, may request a correction of that Inventory listing. The phase-out period for correction requests ends on [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

During the phase-out period persons may wish to review their original Inventory submissions for any remaining incorrectly described chemical substances and submit correction requests. Correction requests must be complete and meet the correction guidelines published in 1980. Correction requests that are incomplete or that are ineligible according to the 1980 guidelines will be rejected by EPA. Correction requests that are complete and eligible will be accepted by the Agency, and the corrected specific chemical identities will be added to the Inventory. Any outstanding correction requests already received by EPA at the time of publication of this notice for which the Agency has requested but not yet received additional information in order to be able to process the request will have until [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*] to provide the information and complete the request.

After [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], EPA does not intend to accept requests to correct original Inventory reporting forms. If, after [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], a person discovers for any reason an error in the specific chemical identity of a chemical substance submitted on an original Inventory reporting form, a Premanufacture Notice (PMN) or exemption notice may need to be filed if the chemical substance is not already listed on the TSCA Inventory.

This action does not impact EPA's authority for initiating, at its discretion, corrections to the Inventory should the Agency determine on its own that, for example, a chemical substance listed on the Inventory has been unintentionally misidentified. Only in this situation will EPA, at its discretion, request and accept documentation from a company to support an Inventory

correction in lieu of requiring a PMN or exemption notice. This action also does not impact EPA's regular maintenance of the Inventory that can include nomenclature updates and correcting minor errors to listings. EPA notes that the Inventory corrections 1980 guidelines and associated phase-out period do not apply to requests for corrections to PMN submissions. If a PMN submitter becomes aware of a material error in a PMN submission currently under review by EPA, the submitter must timely inform EPA pursuant to 40 CFR 720.40(f). EPA will not grant requests to correct a specific chemical identity reported in a PMN submission after the applicable review period has ended.

*C. What is the Agency's authority for taking this action?*

TSCA section 5 requires any person who intends to manufacture (including import) a new chemical substance for a non-exempt commercial purpose to notify EPA at least 90 days in advance. TSCA section 8(b) requires EPA to compile, keep current, and publish a list (i.e., the TSCA Inventory) of each chemical substance that is manufactured or processed in the United States.

*D. Why is EPA taking this action?*

It has become increasingly evident that the 1980 guidelines have outlived the purpose for which they were intended. Furthermore, the Agency understands that the passage of time is also making it more difficult for the original submitters or their legal successors to provide the necessary documentation supporting a request for a correction. Persons have had more than 40 years since the 1980 publication of the revised Inventory and the correction guidelines to discover inadvertent, good faith errors on original Inventory reporting forms.

*E. What is the incremental economic impact of this action?*

The EPA considered the incremental costs and benefits associated with this action, and the EPA estimates there will be a burden reduction for both respondents and the Agency with the elimination of reporting and recordkeeping requirements associated with submission, form completion, recordkeeping, and CBI substantiation. The EPA estimates a burden reduction for

respondents of \$3,030 (2016 wage rates) based on the currently approved Information Collection Request (ICR) OMB Control No. 2070-0145 (EPA ICR No. 1741.08). This action will also reduce Agency costs of \$3,574 (2016 wage rates) associated with this collection, which include the printing and distributing of reporting forms, providing reporting assistance, reviewing, and processing of the report forms and entry of data into the Inventory databases.

## **II. Background**

### *A. What is the original Inventory reporting requirement?*

In accordance with the TSCA section 8(b) requirement, EPA promulgated the Inventory Reporting Regulations at 40 CFR part 710 on December 23, 1977 (42 FR 64572; FRL 817-1), which governed the reporting requirements for, and the scope of, the chemical substances to be included on the original TSCA Inventory. The reporting requirements included a 1975 to 1978 reporting period for chemical substances in U.S. commerce at that time and a 1978 submission period to report such chemicals on one of five original Inventory reporting forms.

### *B. What are the 1980 guidelines for correcting errors in original reports?*

Following the 1978 TSCA Inventory submission period, EPA recognized that a considerable number of chemical substances submitted for inclusion on the original Inventory, published in 1979, and its revision published in 1980, could unintentionally have been described incorrectly by persons reporting them. These errors could have happened as a result of typographical or transcriptional errors, the inadvertent (good faith) technical misidentification of chemical substances, or the lack of sufficient technical or analytical capabilities to fully characterize the exact chemical identities of some chemical substances.

Although not required to do so under TSCA, EPA decided to provide a mechanism for submitters to request corrections of specific chemical identity errors found on their original Inventory reporting forms. In the *Federal Register* of July 29, 1980 (45 FR 50544; FRL-1554-3), the Agency announced the availability of the revised TSCA Inventory and 1980 guidelines on how to request corrections of incorrectly described chemical substances. The 1980 guidelines

identify the types of correction requests that were eligible to be submitted and the documentation that should accompany each type of request. The 1980 guidelines apply to incorrectly described chemical substances submitted on original Inventory reporting forms and included on the original 1979 Inventory and its 1980 revision.

The 1980 guidelines provided industry with a relatively easy mechanism to correct unintentional chemical identity errors made on original Inventory reporting forms without having to interrupt manufacture and submit a PMN or exemption notice under TSCA section 5. As a result, the 1980 guidelines were widely used to request corrections to original Inventory listings, with requests decreasing over time. EPA accepted a large number of correction requests, particularly at first, and added the correct specific chemical identities to the Inventory, which to a certain extent has helped the Agency to maintain an accurate Inventory of existing chemicals. However, the 1980 guidelines failed to include a time period during which requests for corrections to the Inventory could be submitted. It was never EPA's intent to establish a correction mechanism that would be open-ended in time, lasting for decades.

### **III. Rationale**

It has become increasingly evident that the 1980 guidelines have outlived the purpose for which they were intended. Furthermore, the Agency understands that the passage of time is also making it more difficult for the original submitters or their legal successors to provide the necessary documentation supporting a request for a correction. Original submitters of original Inventory reporting forms or their legal successors often are unable to provide the supporting documentation to substantiate their assertion that the chemical identity was incorrect on the original reporting form, which is necessary for EPA to accept that a correction is appropriate. The lack of adequate original submitter documentation has been a major concern and obstacle for EPA in reviewing and accepting correction requests. In order for EPA to accept a correction request, the requester must provide certain original company records documenting what was known about the specific chemical identity of the chemical substance during the 1975 to 1978

original Inventory reporting period, as well as the specific nature of the errors contained in the original Inventory reporting form.

The Agency also understands that the Inventory correction request process may be used improperly by entities attempting to avoid submission of a PMN or exemption notice for a new chemical substance. An example of such an improper use would be a request to change the specific chemical identity of a chemical substance correctly submitted on an original Inventory reporting form, and correctly listed on the original Inventory or its revision, in order to include on the current Inventory a different specific chemical identity that was the result of a change in the manufacture of the original chemical substance. The manufacturing change may be due to a change in the supply of a feedstock, a change in a performance requirement of the end product, or a change in the commercial intentions of the end product. In these situations where the original chemical substance was correctly submitted on an original Inventory reporting form, but at a later point in time a new and different chemical substance was being manufactured or imported in its place, some persons have requested Inventory corrections that are ineligible under the 1980 guidelines. These situations require the submission of a PMN or exemption notice for the new chemical substances not previously reported.

Persons have had more than 40 years since the 1980 publication of the revised Inventory and the correction guidelines to discover inadvertent, good faith errors on original Inventory reporting forms. In addition, persons have had nine specific opportunities over more than thirty years to review their Inventory listings during the six Inventory Update Rule submission periods in 1986, 1990, 1994, 1998, 2002, and 2006, followed by the three Chemical Data Reporting rule submission periods in 2012, 2016, and 2020. Additionally, the Notice of Activity reporting in 2017 through 2018 provided an opportunity for comprehensive Inventory listing review. Persons have had more than sufficient time and opportunity to review their Inventory listings and request Inventory corrections for eligible situations. Moreover, the Agency currently receives few requests, many of which are rejected or otherwise cannot be processed for the reasons described

above. The Agency therefore believes that continuing to allow Inventory corrections will not improve the accuracy of the Inventory. As a result, EPA is taking this action to end company-requested Inventory corrections.

#### **IV. Paperwork Reduction Act**

According to the PRA, 44 U.S.C. 3501 *et seq.*, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the *Federal Register*, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable.

This document does not contain any new information collection requirements that would require additional OMB review and approval. The information collection activities related to the potential submission of information pursuant to TSCA section 5 already has been approved by OMB under OMB Control No. 2070-0145 (EPA ICR No. 1741.08). The annual respondent burden for this information collection activity is estimated to average 39 hours per respondent, including time for reading the regulations, processing, compiling and reviewing data, storing, filing, and maintaining the data. For additional details, please see the Information Collection Request document that is available in the docket.

Send any comments about the accuracy of the burden estimate, and any suggested methods for further minimizing respondent burden, including through the use of automated collection techniques, to the Director, Regulatory Support Division, Office of Mission Support (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. Please remember to include the OMB control number in any correspondence, but do not submit any inventory corrections or related questions to this address.

**Authority:** 15 U.S.C. 2604.

**Michal Freedhoff,**



*Assistant Administrator,*

*Office of Chemical Safety and Pollution Prevention.*

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